

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to address the needs of telecommunications customers who have limited English proficiency.

FILED
PUBLIC UTILITIES COMMISSION
JANUARY 11, 2007
SAN FRANCISCO, CALIFORNIA
RULEMAKING 07-01-021

ORDER INSTITUTING RULEMAKING

I. Summary

This order institutes a rulemaking to consider ways to improve services to California telecommunications consumers who do not speak English fluently. We focus on ways of ensuring that customers with limited proficiency in English have access to the information and assistance they need to obtain and maintain telecommunications services, and to protect such customers from fraud or abuse.

II. Background

On March 2, 2006, the Commission issued Decision (D.) 06-03-013, known as the "Consumer Protection Initiative." This decision explored the rights of and protections available to California telecommunications consumers. The decision raised the question of whether consumers with limited proficiency in English (also referred to as "LEP" or "limited English proficiency") faced disadvantages in the telecommunications market. The Decision ordered Commission staff to perform a study of the special needs of and challenges faced by California telecommunications consumers with limited English proficiency. The decision contemplated that the report resulting from the study would serve "both as a

short-term action document with respect to potential new rules and education and enforcement programs, as well as a longer-term reference document.”

In response to this mandate, Commission staff and a language access consultant assembled information on the language demographics of California, services currently available to LEP Californians through the Commission and telecommunications carriers, and the challenges faced by LEP telecommunications consumers.

Sources used in the production of the report include census and other demographic data, records of past and current Commission activities, the Internet and other research into the language accessibility practices of state and federal government agencies, information received from telecommunications carriers, as well as comments and information provided by carriers, community based organizations (CBOs) and consumer groups, both in writing and at a series of workshops and public meetings held for this purpose.

On June 26, 2006, the Commission held the first of two workshops and, at the request of various CBOs, the Commission held four public meetings at different locations throughout the state to receive input from local community based organizations:

June 26, 2006: Asian Pacific America Legal Center, Los Angeles

August 3, 2006: Central California Legal Services, Fresno

August 8, 2006: Scottish Rite Center, San Diego

August 10, 2006: El Concilio, Stockton

The second workshop was held in San Francisco on August 24, 2006. Given the size of the draft report issued that week, the CPUC granted an extension of the original 180 day study deadline (September 8, 2006) to

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October 5, 2006, so that parties could submit more detailed comments on the draft report.

The report describes research and conclusions to date, includes some recommendations for immediate action that the CPUC has already initiated and specifies further information for staff to gather in order to make a comprehensive proposal for commission and industry action to address the challenges and problems identified in the course of the study.

Staff anticipated that a formal proceeding would be necessary to determine the need for rules and, if rules are appropriate, the specifics of those rules, but was open to efforts carriers and other stakeholders may make to develop voluntary industry standards that address the problems identified in the report.

A copy of the final report is attached to this OIR (Attachment B) and is also available at the Commission website at <http://www.cpuc.ca.gov/PUBLISHED/REPORT/60608.htm>.

The staff report proposes the Commission take immediate action to facilitate improved communications between carriers and CBOs to ensure that systematic problems facing the LEP communities are heard and resolved, and should consider making staff more available to consumers throughout the state to assist in filing informal and (when necessary) formal complaints with the Commission. In addition, the Commission should increase attention and resources available to its own bilingual services office to augment its ability to serve California consumers. The Commission should also broaden the efforts of the Public Advisor's Office already taken in the CPI initiative to add telecommunications education in languages such as Russian and Armenian, which have increasing populations in the state. Moreover, the Commission should develop and propose a set of targeted rules for telecommunications carriers for consideration in a formal Commission proceeding. This should not

be a “one-size-fits all” proposal, but instead should take into account the varied circumstances (such as size, geographic and demographic characteristics of the population served, and services offered) of different telecommunications carriers and target rules to provide appropriate protection while allowing flexibility appropriate to these differences. Such a proposal is attached to this order to inform the discussion in this proceeding.

Specific recommendations included:

For Immediate Action

The Commission should:

1. Direct staff to prepare a set of possible rules that address the key challenges and problems identified in this report. The staff proposal will be the basis for a future Order Instituting Rulemaking (OIR), in which they will serve as a focus for addressing persistent problems facing LEP telecommunications customers that are unlikely to be solved through education alone.
2. Reconcile the disparate language requirements in various Commission decisions and programs (for example, ULTS, CPI, etc.) to ensure that what is learned in this proceeding is applied consistently throughout our current telecommunications programs. This activity should recognize that different programs have different audiences and some differences in requirements may be appropriate. CPI LEP-related recommendations may later be extended to other industries regulated by the Commission, for example energy and water.
3. In coordination with the above recommendation, direct the staff to review all of the Commission’s telecommunications-related public outreach and consumer education materials to ensure that they meet the appropriate comprehension levels of target audiences.

4. Based on current demographic data, add to its list of languages appropriate for consumer education and public outreach in California languages with particularly high rates of linguistically isolated households or with growing or concentrated populations.
5. Improve CAB's tracking ability in the new CAB database scheduled to be on line in 2007 to capture the language in which complaints are filed, and whether the outcomes of complaints differ due to language barriers.
6. Send appropriate language-trained staff from the Commission's Consumer Affairs Branch (CAB) and the Public Advisors Office, in concert with CBOs and carriers, to hold "bill clinics" and other events throughout the state on a regular basis, in order to assist consumers in person in their own communities. Such opportunities for public contact should be planned and organized to encourage public participation through accessible locations and adequate advance public notice, and should take place during hours in which LEP consumers, CBO representatives, and carrier staff are likely to be available to attend, e.g., weekday evenings. In addition to bill clinics, other activities could include dispute resolution and consumer education.
7. Set up procedures to rapidly refer cases of suspected fraud, marketing abuse, and other possible violations involving in-language marketing and customer service to the Commission's Utility Enforcement Branch and to its new Telecommunications Fraud Unit for investigation. We contemplate involving the CBOs in this effort to ensure those organizations understand how to report these incidents to the Commission quickly for action. These procedures should be documented in writing and shared with CBOs, carriers, and the public, to ensure an accessible, fair, and transparent referral and investigation process.

Short-Term Action Plan

The Commission should:

1. Initiate a formal proceeding (such as an OIR) to address specific, on-going challenges for LEP and non-English speaking consumers that may require Commission action or promulgation of new rules and regulations. The proceeding should have a defined scope and include a set of possible rules (developed as Immediate Action 1, above) that address the key challenges and problems identified in this report and that will be used to focus comments and stakeholder proposals.
2. In the context of this rulemaking, consider any settlements or voluntary agreements proposed by CBOs and carriers to obviate the need for formal rules. Staff should monitor any collaborative process and corresponding results that carriers and/or CBOs initiate to develop a voluntary carrier code of conduct pertaining to in-language issues and challenges. The current CPI education process may serve as model for this effort.
3. Expand consumer education programs to address identified problems and concerns of LEP communities. Based on CBO input, this should include more in-language materials and materials developed specifically for the comprehension of different languages, cultural and educational groups.
4. Direct staff resources to facilitate forums – including the Regulatory Complaint Resolution Forum (for carriers) and the CBO Action Plan (for community based organizations) – as a means of early identification of in-language problems and challenges on a regular basis (e.g., annually).

5. Without the ability to directly fund CBO activities now, the Commission should explore other avenues for assisting CBOs that work with the Commission on in-language issues, outreach, education, and complaint resolution.

Long-Term Action Plan

The Commission should:

1. Initiate a regular, periodic process to allow for the re-examination of in-language issues as the nature and demographics of California evolve with respect to language and to ensure the Commission's efforts remain current.
2. Explore how in-language programs developed and implemented under D.06-03-013 may inform challenges in the other utility industries in California.

III. Criteria for Evaluating Potential Policies

The Commission expects to consider a number of objectives in evaluating possible options for addressing the problems telecommunications customers may face if they are not proficient in English. Those objectives include whether an option:

- Promotes informed choice, while not discouraging in-language marketing efforts.
- Minimizes fraud, billing problems, and unresolved complaints.
- Is feasible with existing infrastructure, processes and technologies.
- May be implemented at reasonable cost, and without undue financial burden.

- Is compliant with applicable law.¹

IV. California Utility Diversity Council Language Principles

The California Utilities Diversity Council (CUDC) is an organization comprised of representatives of the utility industry, the community, and the Commission's Utility Supplier Diversity Program. In late summer 2006, CUDC approved a set of principles to guide California utilities in their efforts to serve customers with limited English proficiency. The CUDC presented these utility principles to the Commission on October 3, 2006 and sought the Commission's formal endorsement of them:

Principle #1

The Language of Business is the Language of the Customer

Principle #2

Emergencies and Public Safety Require Attention in All Languages

Principle #3

Recruit, Train, and Compensate for Multilingual Expertise

Principle #4

Measure and Monitor Multilingual Programs and Customer Satisfaction

Principle #5

Establish and Implement Quality Indicators for Multilingual Programs and Practices

Principle #6

Corporate Culture: Language Services and Expertise are Value Added

¹ It is envisioned that any requirements arising from this proceeding may become applicable to other areas we regulate (e.g., energy, water).

We agree with the CUDC that these utility principles may be instructive to the Commission and utilities in developing and improving telecommunications services for customers with limited English proficiency and recognize that many utility companies are currently guided by these principles. These principles, along with the criteria described above, will inform this formal inquiry along with the evaluation criteria we have set forth above.

V. Preliminary Scoping Memo

Issues to be addressed in this proceeding include:

- Assessing current in-language efforts of telecom carriers.
- Availability of and need for improved in-language disclosures and confirmations of rates, services, terms and conditions, and any promotional offers at the time of purchase.
- Use of in-language communications with existing customers.
- Access to in-language customer service.
- Carrier accountability for the actions of third parties that sell a telecommunications provider's products or services.
- Disclosure of prepaid phone card terms of use, and access to customer service.

This rulemaking will consider the proposals presented by Commission staff in its attached proposal on language access issues (Attachment A). Some work does not require formal action and is already underway. We may agree to tailor rules, reporting requirements, or other solutions according to company characteristics, such as size, customer demographics, or other factors.

We seek comments on the following:

1. Which if any of the staff proposals should the Commission adopt? How should they be modified, and why?
2. How do the staff proposals conform to the evaluation criteria discussed in this order? Are those criteria appropriate? What other criteria might be appropriate?
3. Do customers with limited English proficiency need information or disclosures to assist and protect them? To what extent does existing California law require information or disclosures to protect consumers with limited English proficiency? What types of rules would be appropriate and why? To which carriers should these rules apply? What are the costs and benefits of each proposed rule?
4. In what languages should information or services be provided based on demographic data? Do other state agencies require in language marketing, and if so, in which languages? What, if any, other regulatory requirements (such as data tracking or complaint monitoring) are appropriate and why? What cost burdens are imposed by such regulatory requirements?
5. Given that carriers are legally responsible for the actions of their third-party dealers, vendors, or agents, are policies or rules necessary to ensure consumers are protected? What, if any, regulatory requirements (such as data tracking or complaint monitoring) would promote understanding of and improvements to consumer and carrier experiences with third-party vendors, and why?
6. Should the Commission adopt rules to govern the sale of and practices related to prepaid phone cards to protect customers with limited English proficiency? Do customers with English language proficiency need disclosures about prepaid phones cards in other languages? Do customers need information about customer service in other languages?

VI. Category of Proceeding

Pursuant to Rule 7.1(d) of our Rules of Practice and Procedure, this rulemaking is preliminarily determined to be quasi-legislative, as that term is defined in Rule 1.3(d). Our intention is to solicit comments on the possible adoption of consumer protection rules for improving language access and assisting LEP consumers. We do not anticipate holding evidentiary hearings.

VII. Respondents

For purposes of this proceeding, all California telecommunications carriers, including entities registered as providers of prepaid phone debit cards pursuant to Pub. Util. Code § 885, are considered respondents. These entities will be maintained on the service list throughout the course of this proceeding.

VIII. Service List

The Executive Director shall serve copies of the rulemaking on respondents to this proceeding, parties to Commission proceeding R.00-02-004; and participants in the workshops and meetings conducted in the preparation of the Commission staff report who received copies of the October 5, 2006 staff report.

We invite broad participation in this proceeding. Those who seek party status or wish to monitor this proceeding may do so by informing the Commission's ALJ Process Office (process_office@cpuc.ca.gov) of his or her intent to participate and providing the following information:

1. Name and organization represented, if any
2. Address
3. Telephone number
4. E-mail address
5. Assignment to the appearance, state service, or information only category.

In order to be included on the initial service list of this proceeding, parties should so inform the ALJ Process Office no later than 30 days after the mailing date of this rulemaking. The initial official service list will be posted on the Commission's website at www.cpuc.ca.gov and will be updated periodically. Parties should use the website service list for electronic service of all filings.

All filings in this proceeding may be made electronically according to Rule 1.10 of the Commission's Rules of Practice and Procedure. Consistent with those rules, a hard copy of all pleadings shall be concurrently served on the assigned ALJ.

IX. Schedule

The following preliminary schedule for the filing of opening and reply comments in this rulemaking:

Opening Comments	45 days after OIR issuance (mailed date)
Reply Comments	21 days after opening comments

We may conduct workshops and use settlement conferences or mediation sessions if it appears they may be needed or useful in order to clarify proposals or issues, to promote the exchange of ideas, or to assist parties in developing jointly recommended proposals or procedures.

We do not anticipate a need for evidentiary hearings. Any party who believes that hearings are required to adduce adjudicatory facts may request hearings in opening comments. The request should indicate the specific nature of any controverted evidence that would be presented in a hearing. The assigned Commissioner or ALJ will determine the need for a prehearing conference and/or hearings.

Objections to the preliminary categorization of this rulemaking as quasi-legislative shall be filed no later than 10 days after the issuance of this rulemaking. The assigned Commissioner or assigned ALJ may modify the schedule as necessary. We anticipate this proceeding will be completed within 18 months.

X. Public Advisor

Any person or entity interested in participating in this rulemaking as a party and who is unfamiliar with the Commission's procedures should contact the Commission Public Advisor's Office in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov; or in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov. The TYY number is (866) 836-7825.

XI. Ex Parte Communications

Pursuant to Rules 8.4(b) and 8.2(a), ex parte communications are allowed in this proceeding without any restrictions or reporting requirements

Therefore, **IT IS ORDERED** that:

1. A rulemaking is instituted on the Commission's own motion for the purpose of improving services and promoting consumer protection for telecommunications customers who have limited English proficiency.
2. All telecommunications carriers in the state, including wireless carriers, incumbent local exchange carriers, and competitive local exchange carriers and interexchange carriers are made respondents to this proceeding.
3. The Executive Director shall serve this order on respondents to this proceeding, parties to Commission proceeding Rulemaking 00-02-004, and participants in the workshops and meetings conducted in the preparation of the October 5, 2006 staff report.

4. The category of this rulemaking is preliminarily determined to be “quasi-legislative” as that term is defined in Rule 1.3(d) of the Commission’s Rules of Practice and Procedure.

5. Opening comments are due not later than 45 days after this OIR is issued. Reply comments are due no later than 21 days after opening comments are filed. All comments shall be filed and served in accordance with the Commission's Rules of Practice and Procedure. Electronic service is encouraged.

This order is effective today.

Dated January 11, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

ATTACHMENT A

Comment Proposal on Language Access Issues

Background and Purpose

Commission staff have been directed to develop a proposal to address language access issues identified in the report, "*Challenges Facing Consumers With Limited English Skills In The Rapidly Changing Telecommunications Marketplace*," issued on October 5, 2005. This proposal suggests possible ways to assist and provide information to limited English proficient (LEP) telecommunications consumers, with the goal of improving language access and increasing consumer protection. Inclusion of an issue in this proposal does not mean that it will necessarily require a rule or formal action, but means that the issue should be considered in a formal proceeding for a possible regulatory solution. Several options would require time for proper implementation.

Criteria for Evaluating Options

The following characteristics or criteria may be considered in evaluating possible options for addressing these problems; the weight of each criterion and the tradeoffs among the criteria will be decided by the Commission within the context of the forthcoming Order Instituting Rulemaking (OIR), but in general, solutions will be considered to ensure that they accomplish some or all of the following:

- Promote informed choice.
- Minimize fraud, payment and billing problems, and unresolved complaints.
- Enable all consumers, whether LEP or not, to have access to the same information about services and options (fairness).
- Clarify the existence or definition of a problem, and/or gather data on its extent.
- Are technologically feasible.
- Can be implemented at reasonable cost.
- Are compliant with California law.

Rules, if adopted, could apply to any or all telecommunications carriers. Carriers may also be responsible for the compliance of their third-party vendors, dealers, and agents. The goal of the attached proposal is to offer basic information and protection to consumers who are not proficient in English while respecting existing differences amongst company approaches and offering flexibility for carrier compliance. In developing the following proposals, staff considered the varying circumstances of companies, including their different sizes, customer demographics, business models, and other factors. The possible alternative options listed below are not comprehensive, but instead provide some additional approaches for party consideration. Other solutions not contemplated here may also be appropriate for specific issues, and parties are encouraged to suggest new or creative alternatives to assist consumers in the areas noted below. *Parties that support an alternative to the primary option listed below or that*

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Comments suggesting a different approach should explain how their preferred option will assist consumers and why it may be preferable to the primary option when considering the above criteria.

I. Triggers for Availability of Non-English Information

A. Definitions for party comment:

1. The phrase “in-language” is used throughout most of this document to mean the non-English languages required by the primary option in Section 1, which are: Spanish, Chinese, and any other language in which a company markets its products or services (see Question 2 below on the definition of “marketing”).
 - Is this definition appropriate?
 - If not, how should it be changed? For example, the definition could be changed to include more languages, fewer languages, or use different criteria (such as percent of speakers of a given language in the territory) to determine which languages a company should support?
 - Should the triggers and required languages contemplated in Section I.B. below differ for different potential rules (disclosure vs. ongoing communication vs. customer service)?
2. This proposal contemplates requiring a carrier to make information or services available in any languages in which it markets a product or service. For the purposes of these rules, how should the concept of “marketing in a language” be defined?
3. Public Utilities Code §§ 2889.5 and 2890 and Civil Code § 1632 establish requirements for when various types of documents related to communication service and/or other transactions or contracts are required to be in languages other than English. Copies of the text of these code sections are found at the back of this attachment.
 - To what extent are these statutes applicable to the transactions that are the subject of this OIR? If they are not applicable, why is that?
 - Are there other existing statutes that govern or provide guidance to the development of criteria for in-language disclosures and confirmations of services, terms and costs?
 - Do these statutory requirements mandate that the non-English language documents utilized be functionally identical to their English language counterparts? Do they require corresponding non-English language counterparts be accepted for all purposes as a true and correct embodiment of terms and conditions to the same extent as English language counterparts?

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4. This proposal assumes that the customer's preferred language for communicating with telecommunications providers is the language in which the customer is proficient, if that language is other than English.
 - Is this an appropriate assumption to make?
 - Is information on the languages in which a company's customers are proficient a good basis to use for determining which languages a company should support?

B. Possible Triggers and Languages for Application of Information and Service Requirements

Primary Option:

The following requirements should apply to all telecommunications providers in the state of California. Unless otherwise noted, the required information specified in Section III below must be available upon request, or routinely to those who respond to non-English marketing. Information should be provided in:

- The top two non-English languages spoken in the state (Spanish and Chinese).
- Any other language in which the company markets its services.

Exceptions: Telecommunications companies that can show that they do not serve a significant number of consumers (less than 5% of their customer base) who are proficient in Spanish or Chinese but not English may be exempted from the requirement to provide information in these languages. Proof may be provided using customer language proficiency data (if tracked by the company), customer survey data, or census or equivalent demographic data for the area served. The requirement to provide this information if marketing in these or other languages will still apply even if a company meets the requirement for an exception.

Remedy: Failure to comply with any of these rules will entitle the customer to be released from the contract or service agreement without penalty, paying only reasonable costs for services actually used (long-distance or usage minutes, for example), and will not be subject to an early termination fee or other fees for changing or canceling service (upon the return of any equipment provided by the provider as part of the service). If there is a dispute about the amount or reasonable cost of the services actually used, the customer and the carrier should resolve the dispute through its existing complaint resolution processes. In addition, the Commission retains its existing authority to undertake formal investigations into rule violations or fraudulent practices, as appropriate.

Possible Alternative Options:

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- a) Information must be available upon request in the top non-English languages spoken in state (the specific number to be determined if not the two contemplated in the primary option).
- b) Information must be available in any language in which the company markets its services, but need not be available in a language unless the company markets in that language.
- c) Large or statewide companies only (to be defined) must provide information upon request in top two (or more) non-English languages spoken in the state or in their service territory. Smaller companies would be exempt from these language access requirements.
- d) Companies having more than 5% (or another percent threshold) of customers that are proficient in a given language (and not in English) must provide information in that language. Companies would submit customer language proficiency data (if collected), customer survey data, or census or equivalent demographic data for the area served to show which languages must be supported.
- e) Other options or some combination of options.

II. Tracking Requirements

The purpose of data tracking is to allow evaluation of changes in language needs, and to assist companies and the Commission with planning for and targeting language services. The suggested remedy for non-compliance, which is to ensure that a tracking system is put in place, is consistent with this anticipated function.

A. Language Tracking

Primary Option:

Telecommunications companies must be able to track the language in which customers are proficient, and must do so upon request of the customer. If they do not support the customer's language, this should be stated to the customer.

- Companies are encouraged to ask customers the language in which they are proficient and in which they prefer to communicate at service initiation and periodically thereafter, and make a note of the response.
- Companies that wish to use internal company data to obtain an exception to the requirement for providing information in Spanish and Chinese must still ask the language in which the customer is proficient (preferred language) at service initiation and annually thereafter.

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Remedy: Companies must submit to the Commission a description of current tracking or “tagging” abilities and procedures; those that do not have a process in place will implement one within one year and report on progress and outcome to the Commission.

Possible Alternative Options:

- a) Companies must ask customers the language in which the customer is proficient (preferred language) at service initiation and periodically thereafter, and make a note of the response.
- b) Companies must conduct periodic studies of customer or service territory demographics and report the results to the Commission.
- c) No tracking requirement.
- d) Other options or some combination of options.

B. Tracking of Complaint Language

Primary Option:

Telecommunications companies must collect information on the number of complaints received by their third-party representatives (including dealers, agents, and other vendors) by language and complaint category.

Possible Alternative Options:

- a) Telecommunications companies must report to the Commission quarterly on the number of complaints received by their third-party representatives, along with the language in which the customer is proficient (customer’s preferred language) and the general categories of the complaints.
- b) No tracking or reporting.
- c) Other options or some combination of options.

III. Language-Related Information and Service Requirements

Availability of non-English confirmation of services, costs, and terms at point of sale

Primary Option:

Telecommunications companies must make available either (as appropriate): (1) a concise in-language statement of terms and conditions of the service purchased by the customer (if using a contract or customer agreement); or (2) a concise in-language service confirmation summary.

- Must be provided at point of sale for in-person sales, or by mail within seven days for phone or other orders.

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- Companies are encouraged to provide additional information, disclosures, and collateral materials in languages other than English.
- Companies will be held responsible for the compliance of third-parties that sell their products or services, such as agents, dealers, and other vendors.

Possible Alternative Options:

- a) Telecommunications companies using a contract or customer agreement must make that contract or agreement available in-language at the point of sale.
- b) Other options or some combination of options.

B. Availability and Distribution of Information to existing customers in Languages Other Than English

Primary Options:

- Telecommunications companies must provide Commission-mandated notices in Spanish, Chinese, and any other language in which the company markets its services.
- Telecommunications companies must provide a description of the bill format and content in- language in Spanish, Chinese, and any other language in which the company markets its services. This should be provided with the initial summary of services (see 1 above) and at least annually thereafter.
- Companies are encouraged to provide additional information, disclosures, and collateral materials (including in-language billing, as appropriate) in Spanish, Chinese, and any other language in which the company markets its services.

Possible Alternative Options:

- a) Telecommunications companies must provide billing in Spanish, Chinese, and any other language in which the company markets its services.
- b) Telecommunications companies must provide all communications with the customer in Spanish, Chinese, and any other language in which the company markets its services.
- c) Telecommunications companies must provide some of the above information (specifics to be determined) in the language in which the customer is fluent (customer's preferred language), if the company markets its services in that language.
- d) Other options or some combination of options.

C. Access to Non-English customer service

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Primary Option:

Telecommunications companies must ensure that customer service is available and reasonably accessible to consumers in the languages required under these rules.

Carriers may choose to provide in-language customer service utilizing either:

- bilingual company employees,
- bilingual representatives through a contract with another company, or
- an external translation service that enables LEP consumers to communicate effectively, including understanding any technical terms used by the carrier, with English-only customer service employees.

Possible Alternative Options:

- a) Companies and the CPUC should set up a formal system to recognize or register CBOs and advocates to streamline their ability to work with carriers to assist LEP consumers
- b) Other options or some combination of options.

IV. Requirements for Prepaid Phone Cards

Primary Options:

- Prepaid phone cards or their accompanying packaging must include a complete description of the cards' terms of use and associated fees and costs in any language used on the card or packaging. Prepaid phone cards must include, printed on the card, a toll-free number through which the card user can reach customer service in the languages used on the card or accompanying packaging.

These requirements are similar to requirements under California Business and Professions Code 17538.9(a) and (b). By adopting equivalent rules, the Commission hopes to facilitate enforcement of these provisions by Commission personnel, without conflicting with enforcement by other appropriate agencies.

Possible Alternative Options:

- a) Adopt no new requirements but focus staff on enforcement of existing state law.
- b) Adopt no new requirements and take no additional action.
- c) Other options or some combination of options.

V. Penalties

The Commission has the ability to fine providers that do not comply with existing law, *see* D.06-03-013, Appendix D for a list of consumer oriented statutes and regulations. Should

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specific types of additional penalties be adopted for violation of in-language rules that may be adopted or related statutory provisions?

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Public Utilities Code § 2889.5(a)(6):

(6) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. When a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action. If any part of a mailing to a prospective authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

Public Utilities Code § 2890(b)

(b) When a person or corporation obtains a written order for a product or service, the written order shall be a separate document from any solicitation material. The sole purpose of the document is to explain the nature and extent of the transaction. Written orders and written solicitation materials shall be unambiguous, legible, and in a minimum 10-point type. Written or oral solicitation materials used to obtain an order for a product or service shall be in the same language as the written order. Written orders may not be used as entry forms for sweepstakes, contests, or any other program that offers prizes or gifts.

Civil Code § 1632

Please address to what extent, if any, this Civil Code section is applicable to telecommunication providers, as well as what are the benefits and detriments to the Commission applying these or similar requirements to telecommunication providers without specific Legislative directive.

1632. (a) The Legislature hereby finds and declares all of the following:

(1) This section was enacted in 1976 to increase consumer information and protections for the state's sizeable and growing Spanish-speaking population.

(2) Since 1976, the state's population has become increasingly diverse and the number of Californians who speak languages other than English as their primary language at home has increased dramatically.

(3) According to data from the United States Census of 2000, of the more than 12 million Californians who speak a language other than English in the home, approximately 4.3 million speak an Asian dialect or another language other than Spanish. The top five languages other than English most widely spoken by Californians in their homes are Spanish, Chinese, Tagalog, Vietnamese, and Korean. Together, these languages are spoken by approximately 83 percent of all Californians who speak a language other than English in their homes.

(b) Any person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into any of the

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following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, which includes a translation of every term and condition in that contract or agreement:

(1) A contract or agreement subject to the provisions of Title 2 (commencing with Section 1801) of, and Chapter 2b (commencing with Section 2981) and Chapter 2d (commencing with Section 2985.7) of Title 14 of, Part 4 of Division 3.

(2) A loan or extension of credit secured other than by real property, or unsecured, for use primarily for personal, family or household purposes.

(3) A lease, sublease, rental contract or agreement, or other term of tenancy contract or agreement, for a period of longer than one month, covering a dwelling, an apartment, or mobilehome, or other dwelling unit normally occupied as a residence.

(4) Notwithstanding paragraph (2), a loan or extension of credit for use primarily for personal, family or household purposes where the loan or extension of credit is subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000), or Division 9 (commencing with Section 22000) of the Financial Code.

(5) A contract or agreement, containing a statement of fees or charges, entered into for the purpose of obtaining legal services, when the person who is engaged in business is currently licensed to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(c) Notwithstanding subdivision (b), for a loan subject to this part and to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, the delivery of a translation of the statement to the borrower required by Section 10240 of the Business and Professions Code in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated, is in compliance with subdivision (b).

(d) At the time and place where a lease, sublease, or rental contract or agreement described in subdivision (b) is executed, notice in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be provided to the lessee or tenant.

(e) Provision by a supervised financial organization of a translation of the disclosures required by Regulation M or Regulation Z, and, if applicable, Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated, prior to the execution of the contract or agreement, shall also be deemed in compliance with the requirements of subdivision (b) with regard to the original contract or agreement.

(1) "Regulation M" and "Regulation Z" mean any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System and any interpretation or approval issued by an official or employee duly authorized by the board to issue interpretations or approvals dealing with, respectively, consumer leasing or consumer lending, pursuant to the Federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).

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(2) As used in this section, "supervised financial organization" means a bank, savings association as defined in Section 5102 of the Financial Code, credit union, or holding company, affiliate, or subsidiary thereof, or any person subject to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code.

(f) At the time and place where a contract or agreement described in paragraph (1) or (2) of subdivision (b) is executed, a notice in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be conspicuously displayed to the effect that the person described in subdivision (b) is required to provide a contract or agreement in the language in which the contract or agreement was negotiated, or a translation of the disclosures required by law in the language in which the contract or agreement was negotiated, as the case may be. If a person described in subdivision (b) does business at more than one location or branch, the requirements of this section shall apply only with respect to the location or branch at which the language in which the contract or agreement was negotiated is used.

(g) The term "contract" or "agreement," as used in this section, means the document creating the rights and obligations of the parties and includes any subsequent document making substantial changes in the rights and obligations of the parties. The term "contract" or "agreement" does not include any subsequent documents authorized or contemplated by the original document such as periodic statements, sales slips or invoices representing purchases made pursuant to a credit card agreement, a retail installment contract or account or other revolving sales or loan account, memoranda of purchases in an add-on sale, or refinancing of a purchase as provided by, or pursuant to, the original document.

The term "contract" or "agreement" does not include a home improvement contract as defined in Sections 7151.2 and 7159 of the Business and Professions Code, nor does it include plans, specifications, description of work to be done and materials to be used, or collateral security taken or to be taken for the retail buyer's obligation contained in a contract for the installation of goods by a contractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, if the home improvement contract or installation contract is otherwise a part of a contract described in subdivision (b).

Matters ordinarily incorporated by reference in contracts or agreements as described in paragraph (3) of subdivision (b), including, but not limited to, rules and regulations governing a tenancy and inventories of furnishings to be provided by the person described in subdivision (b), are not included in the term "contract" or "agreement."

(h) This section does not apply to any person engaged in a trade or business who negotiates primarily in a language other than English, as described by subdivision (b), if the party with whom he or she is negotiating is a buyer of goods or services, or receives a loan or extension of credit, or enters an agreement obligating himself or herself as a tenant, lessee, or sublessee, or similarly obligates himself or herself by contract or lease, and the party negotiates the terms of the contract, lease, or other obligation through his or her own interpreter.

As used in this subdivision, "his or her own interpreter" means a person, not a minor, able to speak fluently and read with full understanding both the English language and any of the

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languages specified in subdivision (b) in which the contract or agreement was negotiated, and who is not employed by, or whose service is made available through, the person engaged in the trade or business.

(i) Notwithstanding subdivision (b), a translation may retain the following elements of the executed English-language contract or agreement without translation: names and titles of individuals and other persons, addresses, brand names, trade names, trademarks, registered service marks, full or abbreviated designations of the make and model of goods or services, alphanumeric codes, numerals, dollar amounts expressed in numerals, dates, and individual words or expressions having no generally accepted non-English translation. It is permissible, but not required, that this translation be signed.

(j) The terms of the contract or agreement which is executed in the English language shall determine the rights and obligations of the parties. However, the translation of the contract or the disclosures required by subdivision (e) in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be admissible in evidence only to show that no contract was entered into because of a substantial difference in the material terms and conditions of the contract and the translation.

(k) Upon a failure to comply with the provisions of this section, the person aggrieved may rescind the contract or agreement in the manner provided by this chapter. When the contract for a consumer credit sale or consumer lease which has been sold and assigned to a financial institution is rescinded pursuant to this subdivision, the consumer shall make restitution to and have restitution made by the person with whom he or she made the contract, and shall give notice of rescission to the assignee. Notwithstanding that the contract was assigned without recourse, the assignment shall be deemed rescinded and the assignor shall promptly repurchase the contract from the assignee.

(END OF ATTACHMENT A)

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[New Rulemaking Malcolm Agenda Dec. Revision 3 - Attachment B](#)

[Malcolm APPENDIX B](#)